

**DNRC Policy #:** 3-0305

**Name:** Annual Vacation Leave

**Reference MOM:** 3-0305

**Reference Other:** \_\_\_\_\_

**Approval Signature:** Arthur R. Clinch

**Effective Date:** 10-3-95

# Annual Vacation Leave Policy

## Department Of Natural Resources And Conservation

### **I. Introduction. The objective of this policy is to establish uniform**

procedures for calculating and granting annual vacation leave benefits. Nothing in this policy guarantees approval of the granting of annual vacation leave in any instance. Each request will be judged by DNRC in accordance with this policy.

### **II. Definitions.**

(A) "Break in service" means a period of time in excess of 5 working days when the person is not employed and that severs continuous employment. A break in service could result from a termination or resignation or could be an absence of more than 5 working days in a row without an approved leave of absence.

(B) "Continuous employment" means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days. An approved continuous leave of absence without pay exceeding 15 working days does not constitute a break in service.

(C) "Jurisdiction" means the extent of authority of any Montana state or local government entity within which the limits of authority or control may be exercised. State government is a single jurisdiction.

(D) "Qualifying period" means a 6-calendar month period an employee must be continuously employed to be eligible to use vacation leave credits or to be eligible for a lump-sum payment upon termination for unused vacation leave credits.

(E) "Transfer" mean, as provided in 2-18-601 (11). MCA, "a change of employment from one agency to another agency in the same jurisdiction without a break in service.

(F) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer.

(G) "Vacation leave credits" means the earned number of vacation hours an employee is eligible to use upon completion of the qualifying period.

(H) "Year" means 12 calendar months in a pay status.

### **III. Accrual and Eligibility.**

(A) In accordance with 2-18-611,MCA, all employees serving in positions which are permanent, job-share, intermittent, or seasonal are eligible to earn vacation leave credits. Temporary employees do not earn vacation leave credits, except that a temporary employee who is subsequently hired into a permanent position without a break in service and temporary employees who are employed continuously longer than 6 months shall receive retroactive vacation leave credits for the preceding continuous period of temporary employment.

(B) An employee must be continuously employed for the qualifying period of 6 calendar months to be eligible to use vacation leave.

(C) Annual vacation leave credits accrue from the first day of employment except as provided in (A) for employees in temporary positions. Leave credits may not be advanced nor may leave be taken retroactively.

(D) When terminated, seasonal employees will receive lump sum payments of appropriate accrued unused leave. Upon reinstatement, the employee will not receive credit for leave which has previously been compensated. Seasonal employees must immediately report back to work when operations resume.

(E) Vacation leave credits will not accrue for those hours exceeding 40 hours in a workweek. This includes overtime hours that are paid at time and a half.

(F) An employee may not accrue annual vacation leave credits while in a leave-without-pay status.

### **IV. Calculating Leave Credits.**

(A) Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency, whether the employment is continuous or not. Agency means "any legally constituted department, board, or commission of Montana state, county, or city

government or any political subdivision thereof," or must have been employed by the state, immediately prior to serving with the armed forces and return to state service within 90 days after separation or discharge. Time as an elected state, county, or city official, as a school teacher, as an independent contractor or personal services contractor does not count toward the rate earned.

### Rate Earned Schedule

Years of Working Days	Employment Credit Per Year
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years on	24

(B) An employee must be credited with one year of employment for each period of:

(1) 2,080 hours of service following the date of employment; an employee must be credited with 80 hours of service for each biweekly pay period in which in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; or

(2) 12 calendar months in which in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any one month.

(C) It is the responsibility of the employee to supply documentation of any previous employment time or military service time to be counted toward the rate earned schedule.

(D) An employee who provides appropriate documentation of eligible previous public employment or military service shall have that time used to calculate the future leave accrual rate. The accrual rate shall not be adjusted retroactively.

### V. Pay Period Accrual.

(A) Employees in a pay status at least 80 hours or more in a bi-weekly pay period, accrue the number of hours of vacation leave credits indicated in the following schedule.

Employees in a pay status less than 80 hours in a bi-weekly pay period or work on an intermittent basis, accrue the number of hours of vacation leave credits calculated by using the applicable amount from the following schedule multiplied by the hours worked.

No. of Completed 80 hours or more in pay Less than 80 hours in

Years of Employment status per pay period pay status per pay period

0-10 years 4.62 hours .058 x no. hours

10-15 years 5.54 hours .069 x no. hours

15-20 years 6.46 hours .081 x no. hours

20 on 7.38 hours .092 x no. hours

(B) Vacation leave credits are earned at the end of each bi-weekly pay period. An employee may take vacation leave credits at the start of the next bi-weekly pay period, provided the employee has worked the qualifying period.

## **VI. Maximum Accrual.**

(A) All full-time and part-time employees serving in permanent positions may accumulate two times the total number of annual leave credits they are eligible to earn per year.

(B) Excess vacation leave credits will be forfeited, except as provided in (C)-(D) below, unless taken by the employee within 90 calendar days from the last day of the calendar year in which the excess credits were earned.

(C) Division Administrators, Chief Legal Counsel are responsible for actively managing vacation leave for their employee. Division Administrators, Chief Legal Counsel and immediate supervisors should work with employees as early as possible prior to the 90 day window when an employee's leave balance exceeds two times the annual leave credits they are eligible to earn in order to provide a reasonable opportunity for the employee to use rather than forfeit the excess leave.

(D) Employees are responsible for making a written request, to the appropriate supervisor, with sufficient notice to take the excess vacation leave time off before the forfeiture deadline. If the immediate supervisor and the employee cannot negotiate acceptable leave dates during the 90 day window to use all the excess leave, then the Division Administrator can deny all or part of the employees request and extend, in writing to the Department's Personnel Director, the time that the employee may use the excess vacation leave to the end of the calendar year in which the leave would have been forfeited.

## **VII. Vacation Leave Requests.**

(A) Annual vacation leaves shall be determined by agreement between each employee and appropriate supervisor with regard to the best interest of the DNRC as well as the best interests of each employee. Where the interest of the DNRC requires the employee's attendance, the DNRC's interest overrides the employee's interest.

(B) Employees should submit their request for vacation leave to the appropriate supervisor(s) as far in advance of the vacation leave date as possible. Request for vacation leave should be in writing on the DNRC bi-weekly time and attendance report Part C: Leave Request. This advance notice allows the appropriate supervisor(s) time to reschedule work projects, meetings, etc., as needed.

(C) The DNRC shall refuse to approve annual leave which results in a total of more than 40 hours in a pay status for the workweek. In no case may the number of hours of annual leave taken exceed the number of hours the employee is regularly scheduled to work.

(D) Vacation leave must be taken in minimum increments of one-half hour.

### **VIII. Vacation Leave on Holidays.**

Vacation leave taken over a legal holiday may not be charged to employee's vacation leave for that day.

### **IX. Absence Due to Illness.**

Absence from employment by reason of illness shall not be chargeable against unused vacation leave credits unless approved by the employee.

### **X. Lump-Sum Payment Upon Termination.**

(A) An employee who terminates employment for reasons not reflecting discredit on oneself shall be entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period.

(B) Termination which results in forfeiture of the lump-sum payment is subject to the appropriate grievance procedure.

(C) Unused vacation leave is computed based on the employee's salary rate at the time of termination.

### **XI. This policy shall apply to all Department of Natural Resources and Conservation employees.**

This policy shall be used unless it conflicts with negotiated labor contract provisions, which shall take precedence to the extent applicable.